

HIV/STD and Sex Education in Michigan Public Schools

2004 Comparison of Previous and Current Laws



This chart was developed to help educators identify those components of the law that changed as a result of Public Acts 165 and 166 of 2004, effective 6/04. Relevant sections of the law are cited.

Topics	Past Prior to PA 165 & 166	Current Including PA 165 & 166
Mandated HIV and Allowed Sex Education	<p>“The principal modes by which dangerous communicable diseases, including, but not limited to, human immunodeficiency virus infection and acquired immunodeficiency syndrome, are spread and the best methods for the restriction and prevention of these diseases shall be taught in every public school in this state.” (§380.1169.1)</p> <p>“The board of a school district may engage qualified instructors and provide facilities and equipment for instruction in sex education....” (§380.1507.1)</p>	The current law did not change the requirement for HIV/AIDS instruction and the allowance for sex education instruction.
Parental Rights and Exclusion From Instruction	<p>“A pupil shall not be enrolled in a class in which the subjects of family planning or reproductive health are discussed unless the pupil's parent or guardian is notified in advance of the course and the content of the course, is given a prior opportunity to review the materials to be used in the course and is notified in advance of his or her right to have the pupil excused from the class.” Upon the written request of a pupil or the pupil's parent or legal guardian, a pupil shall be excused, without penalty or loss of academic credit, from attending a class described in subsection (1).” (§380.1507.3 & 4)</p> <p>“If a parent or legal guardian of a pupil files with the public school in which the pupil is enrolled a continuing written notice that the pupil is to be excused from a class described in section 1507, the pupil shall not be enrolled in a class...unless the parent or legal guardian submits a written authorization for that enrollment.” (§380.1507a)</p>	No change is included in the new law.
Sex Education Supervisor	<p>“A program of instruction in reproductive health shall be supervised by a registered physician, a registered nurse, or other person certified by the state as qualified.” (§380.1506.1)</p>	No change is included in the new law.
Advisory Board Chairs	The law did not prescribe anything related to the chair of the advisory board.	“The board of a school district...shall appoint 2 co-chairs for the advisory board, at least 1 of whom is a parent of a child attending a school operated by the school district.” (§380.1507.5)

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Advisory Meeting Notices	The law did not prescribe how the advisory board meetings were set.	“Written or electronic notice of a sex education advisory board meeting shall be sent to each member at least 2 weeks before the date of the meeting.” (§380.1507.5)
Advisory Board Membership	<p>“A school district shall not offer this instruction [sex education] unless an advisory board is established by the district board...“The advisory board shall consist of parents having children attending the district’s schools, pupils in the district’s schools, educators, local clergy, and community health professionals.” (§380.1507.5)</p> <p>The numbers required for each member group are not designated.</p>	<p>“A school district shall not offer this instruction [sex education] unless a sex education advisory board is established by the board.... The board of a school district shall determine terms of service for the sex education advisory board, the number of members to serve on the advisory board, and a membership selection process that reasonably reflects the school district population...”</p> <p>“...At least ½ of the members of the...board shall be parents who have a child attending a school operated by the school district, and a majority of these parent members shall be individuals who are not employed by a school district. The board of a school district shall include pupils of the school district, educators, local clergy, and community health professionals on the sex education advisory board.” (§380.1507.5)</p>
Advisory Board Role	<p>“...to periodically review the materials and methods of instruction used, and to make recommendation to the district regarding changes in the materials or methods.” (§380.1507.5)</p>	<p>“Establish program goals and objectives for pupil knowledge and skills that are likely to reduce the rates of sex, pregnancy, and sexually transmitted diseases.”</p> <p>“Review the materials and methods of instruction used and make recommendations to the board of the school district for implementation. ...take into consideration the school district's needs, demographics, and trends, including, but not limited to, teenage pregnancy rates, sexually transmitted disease rates, and incidents of student sexual violence and harassment.”</p> <p>“At least once every 2 years, evaluate, measure, and report the attainment of program goals and objectives established under subdivision (a). ...make the resulting report available to parents in the school district.” (§380.1507.5, a, b, c)</p>
Public Hearings and Notice of Hearings	“Before adopting any revisions in the materials or methods used in instruction under this section, including, but not limited to, revisions to provide for the teaching of abstinence from sex as a method of	“Before adopting any revisions in the materials or methods used in instruction under this section, including, but not limited to, revisions to provide for the teaching of abstinence from sex as a method of

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Public Hearings and Notice of Hearings (cont.)	preventing unwanted pregnancy and sexually transmitted disease, the board of a school district shall hold at least 2 public hearings on the proposed revisions. The hearings shall be held at least 1 week apart and public notice of the hearings shall be given in the manner required under section 1201 for board meetings. A public hearing...may be held in conjunction with a public hearing held pursuant to section 1169.” (§380.1507.6)	preventing unplanned or out-of-wedlock pregnancy and sexually transmitted disease, the board of a school district shall hold at least 2 public hearings on the proposed revisions. The hearings shall be held at least 1 week apart and public notice of the hearings shall be given in the manner required under section 1201 for board meetings. A public hearing...may be held in conjunction with a public hearing held pursuant to section 1169.” (§380.1507.6)
Teacher Training	<p>“Except for licensed health care professionals who have received training on human immunodeficiency virus infection and acquired immunodeficiency syndrome, each person who teaches K to 12 pupils about human immunodeficiency virus infection and acquired immunodeficiency syndrome pursuant to subsection (1) shall have training in human immunodeficiency virus infection and acquired immunodeficiency syndrome education for young people.” (§380.1169.2)</p> <p>“A school district that provides a [sex education] class...shall offer the instruction by teachers qualified to teach health education.” (§380.1507.5)</p>	No change is included in the new law.
Required Abstinence Messages	<p>“...teaching under this section shall include the teaching of abstinence from sex as a responsible method for restriction and prevention of diseases and as a positive lifestyle for unmarried young people.” (§380.1169.1)</p> <p>“...instruction described in this subsection shall include the teaching of abstinence from sex as a responsible method of preventing unwanted pregnancy and sexually transmitted disease and as a positive lifestyle for unmarried young people.” (§380.1507.1)</p>	<p>“...teaching under this section shall stress that abstinence from sex is a responsible and effective method for restriction and prevention of diseases and is a positive lifestyle for unmarried young people.” (§380.1169.1)</p> <p>“...instruction described in this subsection shall stress that abstinence from sex is a responsible and effective method of preventing unplanned or out-of-wedlock pregnancy and sexually transmitted disease and is a positive lifestyle for unmarried young people.” (§380.1507.1)</p> <p>“...shall emphasize that abstinence from sex is a positive lifestyle for unmarried young people because abstinence is the only protection that is 100% effective against unplanned pregnancy, sexually transmitted disease, and sexually transmitted human immunodeficiency virus infection and acquired immunodeficiency syndrome.” (§380.1507b.1)</p>

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Risk Reduction Messages	<p>“The principal modes by which dangerous communicable diseases, including, but not limited to, human immunodeficiency virus infection and acquired immunodeficiency syndrome, are spread and the best methods for the restriction and prevention of these diseases shall be taught in every public school in this state.” (§380.1169.1)</p>	<p>“The principal modes by which dangerous communicable diseases, including, but not limited to, human immunodeficiency virus infection and acquired immunodeficiency syndrome, are spread and the best methods for the restriction and prevention of these diseases shall be taught in every public school in this state.” (§380.1169.1)</p> <p>“Establish program goals and objectives for pupil knowledge and skills that are likely to reduce the rates of sex, pregnancy, and sexually transmitted diseases. This subdivision does not prohibit a school district from establishing additional program goals and objectives that are not contrary to this section, section 1169, or section 1507b.” (§380.1507.5.a)</p> <p>“This section does not prohibit a public school from offering sex education with behavioral risk reduction strategies, as defined by law, that are not 100% effective against unplanned pregnancy, sexually transmitted disease, and sexually transmitted human immunodeficiency virus infection and acquired immunodeficiency syndrome.” (§380.1507.3)</p>
Additional Required Content (in Addition to Emphasis on Abstinence)	<p>“...includes information clearly informing pupils that having sex or sexual contact with an individual under the age of 16 is a crime punishable by imprisonment, and that 1 of the other results of being convicted of this crime is to be listed on the sex offender registry on the internet for at least 25 years.” (§388.1766a.1.c)</p>	<p>“...includes age-appropriate information clearly informing pupils at 1 or more age-appropriate grade levels that having sex or sexual contact with an individual under the age of 16 is a crime punishable by imprisonment, and that 1 of the other results of being convicted of this crime is to be listed on the sex offender registry on the internet for up to 25 years.” (§388.1766a.1.c)</p> <p>“Material and instruction in the sex education curriculum under section 1507 that discusses sex shall be age-appropriate, shall not be medically inaccurate, and shall do at least all of the following:</p> <ul style="list-style-type: none"> (a) Discuss the benefits of abstaining from sex until marriage and the benefits of ceasing sex if a pupil is sexually active. (b) Include a discussion of the possible emotional, economic, and legal consequences of sex. (c) Stress that unplanned pregnancy and sexually transmitted diseases are serious

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<p>Additional Required Content (in Addition to Emphasis on Abstinence) (cont.)</p>		<p>possibilities of sex that are not fully preventable except by abstinence.</p> <p>(d) Advise pupils of the laws pertaining to their responsibility as parents to children born in and out of wedlock.</p> <p>(e) Ensure that pupils are not taught in a way that condones the violation of the laws of this state pertaining to sexual activity, including, but not limited to...MCL 750.158, 750.335a, 750.338, 750.338a, 750.338b, and 750.520b to 750.520e [sodomy, indecent exposure, gross indecency, and criminal sexual conduct].</p> <p>(f) Teach pupils how to say "no" to sexual advances and that it is wrong to take advantage of, harass, or exploit another person sexually.</p> <p>(g) Teach refusal skills and encourage pupils to resist pressure to engage in risky behavior.</p> <p>(h) Teach that the pupil has the power to control personal behavior. Pupils shall be taught to base their actions on reasoning, self-discipline, a sense of responsibility, self-control, and ethical considerations such as respect for self and others.</p> <p>(i) Provide instruction on healthy dating relationships and on how to set limits and recognize a dangerous environment.</p> <p>(j) Provide information for pupils about how young parents can learn more about adoption services and about the provisions of the safe delivery of newborns law...MCL 712.1 to 712.20.</p> <p>(k) Include information clearly informing pupils that having sex or sexual contact with an individual under the age of 16 is a crime punishable by imprisonment and that 1 of the other results of being convicted of this crime is to be listed on the sex offender registry on the internet for at least 25 years.</p>
<p>Accuracy of Instruction</p>	<p>The law did not address the accuracy of instruction.</p>	<p>“The superintendent of public instruction...shall provide for the development and distribution to school districts of medically accurate material on the teaching of human immunodeficiency virus infection...” (§380.1169.2)</p> <p>“Material and instruction in the sex education curriculum under section 1507 that discusses sex...shall not be medically inaccurate...” (§380.1507b.2)</p>

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Age-Appropriate Instruction	The law did not address the need for age-appropriate instruction.	<p>“Material and instruction in the sex education curriculum under section 1507 that discusses sex shall be age-appropriate...and shall do at least all of the following if age-appropriate:” (§380.1507b.2)</p> <p>“That the sex education instruction includes age-appropriate information clearly informing pupils at 1 or more age-appropriate grade levels that having sex or sexual contact with an individual under the age of 16 is a crime...” (§388.1766a.1.c)</p>
Family Planning	“A person shall not dispense or otherwise distribute in a public school a family planning drug or device.” (§380.1507.7)	“A person shall not dispense or otherwise distribute in a public school or on public school property a family planning drug or device.” (§380.1507.7)
Pregnancy Options	“Clinical abortion shall not be considered a method of family planning, nor shall abortion be taught as a method of reproductive health.” (§380.1507.8) “As used in subsection (1) and sections 1507 and 1508, ‘reproductive health’ means that state of an individual's well-being which involves the reproductive system and its physiological, psychological, and endocrinological functions.” (§380.1506.2)	<p>“Clinical abortion shall not be considered a method of family planning, nor shall abortion be taught as a method of reproductive health.” (§380.1507.8) “As used in subsection (1) and sections 1507 and 1508, ‘reproductive health’ means that state of an individual's well-being which involves the reproductive system and its physiological, psychological, and endocrinological functions.” (§380.1506.2)</p> <p>“Provide information for pupils about how young parents can learn more about adoption services and about the provisions of the safe delivery of newborns law....” (§380.1507b.2.j.)</p>
Complaint Process	No complaint process is described in the law.	“(2) If a parent or legal guardian of a pupil enrolled in a district or intermediate district believes that the district or intermediate district has violated this section or section 1169, 1506, or 1507 of the revised school code, MCL 380.1169, 380.1506, and 380.1507, he or she may file a complaint with the superintendent or chief administrator of the district or intermediate district in which the pupil is enrolled. Upon receipt of the complaint, the superintendent or chief administrator of the district or intermediate district shall investigate the complaint and, within 30 days after the date of the complaint, provide a written report of his or her findings to the parent or legal guardian who filed the complaint and to the superintendent of public instruction. If the investigation reveals that 1 or more

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<p>Complaint Process (cont.)</p>		<p>violations have occurred, the written report shall contain a description of each violation and of corrective action the district or intermediate district will take to correct the situation to ensure that there is no further violation. The district or intermediate district shall take the corrective action described in the written report within 30 days after the date of the written report.</p> <p>(3) If a parent who has filed a complaint with a district under subsection (2) believes that the district is still not in compliance with law... the parent may appeal the findings to the intermediate district in which the district is located. If there is an appeal to an intermediate district under this subsection, the intermediate superintendent of the intermediate district shall investigate the complaint...provide a written report of his or her findings to the parent or legal guardian who filed the appeal and to the superintendent of public instruction. If... violations have occurred, the intermediate superintendent in consultation with the local district shall develop a plan for corrective action....</p> <p>(4) If a parent who has filed a complaint with an intermediate district under subsection (2) or a parent who has filed an appeal with an intermediate district under subsection (3) believes that the district or intermediate district is still not in compliance...the parent may appeal the findings to the department. If there is an appeal..., the department shall investigate the complaint and...provide a written report of its findings.... If the department finds 1 or more violations...(a) The department shall develop a plan for corrective action... The district or intermediate district shall take the corrective action described in the plan within 30 days. (b) In addition to withholding the percentage of state school aid...the department may assess a fee to the district or intermediate district..." (§388.1766a.2, 3, 4)</p>

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Penalties	<p>“A district in which a school official, member of a board, or other person dispenses or otherwise distributes a family planning drug or device in a public school..., dispenses prescriptions for any family planning drug, or makes referrals for abortions shall forfeit 5% of its total state aid appropriation.” (§388.1766)</p>	<p>“A district in which a school official, member of a board, or other person dispenses or otherwise distributes a family planning drug or device in a public school..., dispenses prescriptions for any family planning drug, or makes referrals for abortions shall forfeit 5% of its total state aid appropriation.” (§388.1766)</p> <p>“If an investigation conducted by the department under subsection (4) reveals that a district or intermediate district has committed 1 or more violations of this section or...MCL 380.1169, 380.1506, and 380.1507, the district or intermediate district shall forfeit an amount equal to 1% of its total state school aid...” (§388.1766a.5)</p>
Terminology	<ul style="list-style-type: none"> • Advisory board • Unwanted pregnancy • Class 	<ul style="list-style-type: none"> • Sex education advisory board • Unplanned or out-of-wedlock pregnancy • Class “...includes an assembly or small group presentation.”

For more information on HIV/STD education in Michigan schools, go to the Michigan Department of Education (MDE) web site, www.michigan.gov/mde, click “K-12 Curriculum”, click “Health Education”, and click “HIV/STD and Sexuality Education”. Questions should be directed to Laurie Bechhofer, MDE Consultant, 517-335-7252, bechhoferl@Michigan.gov.

This comparison chart should not be used to replace statute. For the exact language of Michigan Compiled Laws, go to www.michiganlegislature.org. Concerns regarding interpretation should be directed to legal counsel.

